

**AGREEMENT BETWEEN THE  
COUNTY OF CAMDEN  
AND  
MERCHANTVILLE BOROUGH  
REGARDING MARKETING OF RECYCLABLES**

This AGREEMENT made and entered into this 14<sup>th</sup> day of November 2011 by and between the County of Camden, (hereinafter “COUNTY”), a body politic and corporate, located at 520 Market Street, Camden, New Jersey, 08102 and the Borough of Merchantville, (hereinafter “MUNICIPALITY”), a municipal corporation, located at One West Maple Avenue, Merchantville, NJ 08109.

**WHEREAS**, County of County has entered into an agreement with FCR Camden, LLC d/b/a ReCommunity Recycling (hereinafter “OPERATOR”) of Charlotte, North Carolina to provide marketing services for recyclables for Camden County municipalities at their facility located at 2201 Mt. Ephraim Avenue, Camden, New Jersey, 08104 (hereinafter “FACILITY”); and

**WHEREAS**, the COUNTY and MUNICIPALITY are desirous of entering into a Shared Services Agreement, whereby the MUNICIPALITY will benefit from the above-referenced recycling marketing services; and

**WHEREAS**, such Shared Services Agreement will provide for the processing and marketing of glass, metal, and certain plastic food and beverage containers, newspapers, old corrugated cardboard and mixed residential paper, and such other recyclables as may be determined from time-to-time by the COUNTY which are generated by municipal programs and,

WHEREAS, N.J.S.A. 40A:65-1 et seq (“Uniform Shared Services and Consolidation Act”) permits two local units to enter into a contract for any services which any party to the agreement is empowered to render within its jurisdiction; and

WHEREAS, the COUNTY and the MUNICIPALITY agree that their mutual public purposes and their best interests will be promoted by the execution and delivery of this Shared Services Agreement pursuant to the powers conferred by the Uniform Shared Services and Consolidation Act; now, therefore,

IN CONSIDERATION of the mutual covenants and promises herein contained, it is agreed by and between the parties as follows:

1. DEFINITIONS

The following definitions shall apply where referenced in this agreement. For the purpose of this agreement all recyclables delivered to OPERATOR shall be understood to be those recyclables processed in accordance with a municipal curbside recyclable program. At the discretion of the COUNTY, the COUNTY may restrict recyclables covered under this agreement to only recyclables obtained from residential sources.

NEWSPAPER – All contents of newspapers, including glossy inserts contained in the Sunday editions generated by municipal recycling programs are acceptable. Newspapers can be put into a kraft grocery bag or delivered loose.

CORRUGATED CARDBOARD – All types and colors of unwaxed corrugated cardboard generated by municipal recycling programs are acceptable. Corrugated containers can be wrapped with string or delivered loose.

MIXED RESIDENTIAL PAPER – All newspaper and corrugated cardboard as

defined above, plus magazines, catalogs, brochures, envelopes, chipboard and paperboard containers, phone books, paper towel and toilet tissue rolls, junk mail, kraft bags, file folders, school papers, work books, textbooks (without hard covers), office paper (including fax paper), NCR paper, aseptic packaging, and non-metallic wrapping paper generated by municipal recycling programs.

GLASS CONTAINERS – Empty, unbroken clear, brown, and green glass food and beverage containers and loose metal jar lids generated by municipal recycling programs. NO drinking glasses, Pyrex, mirrors, window or auto glass, light bulbs, ceramics or broken glass. Rinse, leave labels on.

PLASTIC CONTAINERS – Empty juice, soda, water, milk and laundry detergent bottles, yogurt cups, margarine tubs, etc. with #1, #2, #4, #5 and #7 recycling symbols on them generated by municipal recycling programs. No flower pots, oil containers or 5 gallon pails. Rinse, leave labels on and discard caps.

METAL CONTAINERS – Empty aluminum, steel, tin and /bi-metal food and beverage containers including loose metal can lids generated by municipal recycling programs. NO scrap metal. Rinse and leave labels on.

DUAL-STREAM RECYCLABLES – The recyclable material described herein, segregated into Mixed Residential Paper and Commingled Container fractions and delivered in separate vehicles or compartmentalized vehicles.

SINGLE-STREAM RECYCLABLES – The recyclable materials described herein, being unsegregated and delivered in a single vehicle.

## 2. TERM

This Agreement shall begin on January 1, 2012 and shall end on December 31, 2016.

### 3. RELATIONSHIP BETWEEN THE PARTIES

With respect to all contracts for the processing and marketing of glass, metal and certain plastic food and beverage containers and newspaper, corrugated cardboard, mixed residential paper and such other recyclables as may be determined from time-to-time by the COUNTY, the COUNTY is authorized to act, but shall not be required to act with respect to doing all things which are necessary and proper in order to permit the successful operation of the recycling facility.

### 4. COST OF SERVICE

OPERATOR shall be entitled to receive, and the COUNTY shall pay, all fees resulting from the MUNICIPALITY'S delivery of residentially generated fiber and commingled glass, metal and plastic containers by, or on behalf of, Camden County municipal recycling programs. Said fees shall be adjusted on January 1<sup>st</sup> each year thereafter, in an amount equal to the average percent increase in the Consumer Price Index (CPI) over the previous calendar year.

### 5. REVENUE SHARING

The OPERATOR will submit monthly to the COUNTY, a commodity revenue summary which presents actual tons shipped to each commodity vendor, the average price per ton paid by each commodity vendor and total commodity revenue by commodity type. In transactions where brokerage fees are charged, the OPERATOR shall include within this monthly report the per ton brokerage fees for tonnage delivered to each commodity vendor.

#### Single-Stream Recyclables

In each month where the Average Commodity Revenue of Single Stream recyclables exceeds \$75.00 per ton, OPERATOR shall pay a revenue share to the MUNICIPALITY, pro rata, on the basis of single stream tonnage delivered, as between OPERATOR and each MUNICIPALITY

delivering Single Stream recyclables. Said revenue share shall be allocated as follows:

**55% of the balance in excess of \$75.00 per ton to the MUNICIPALITY, 45% to the OPERATOR and COUNTY based on the Tier One and Tier Two Revenue Share program as agreed to between OPERATOR and COUNTY.**

Where the average commodity revenue derived by OPERATOR from the sale of all recyclables delivered to the facility each month is less than \$75.00 per ton, no revenue share shall be paid to the MUNICIPALITY and any fees due to OPERATOR shall be paid by the COUNTY as provided for in Section 4, COST OF SERVICE, as detailed herein.

6. COUNTY'S RESPONSIBILITIES

The COUNTY'S responsibilities shall be as follows:

A. Enter into an Agreement with OPERATOR for the receipt, storage, processing and transportation to market for all glass, metal, certain plastic food and beverage containers, and newspapers, corrugated cardboard and mixed residential paper as defined in section 1, and such other recyclables as may be determined from time-to-time by the COUNTY. Said FACILITY shall be made available for the receipt of recyclables, barring unforeseen circumstances, between the hours of 8:00 a.m. and 4:30 p.m. Monday through Friday with the exception of New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day and Christmas Day when the FACILITY shall be closed, and any other additional day in the discretion of the OPERATOR which shall precede or follow the above designated holidays. MUNICIPALITY shall receive notice of all such additional days by posting at the FACILITY not less than ten (10) business days in advance of the change.

B. Provide each MUNICIPALITY that delivers recyclables to the FACILITY with the certification and documentation necessary to allow the MUNICIPALITY to report to the New Jersey Office of Recycling under New Jersey's Mandatory Statewide Source Separation and Recycling Act.

## 7. MUNICIPALITY'S RESPONSIBILITIES

The MUNICIPALITY'S responsibilities shall be as follows:

A. Provide the equipment, personnel and funding necessary to collect and transport the recyclables to the FACILITY.

B. Deliver or arrange for the delivery of all recyclable materials as identified herein , and collected either dual stream or single stream by, or on behalf of, the Camden County municipal recycling programs to the FACILITY. All recyclables specified herein delivered to the FACILITY shall to the fullest extent possible be unbroken and/or free of all other solid waste.

C. Refrain from delivering those recyclable materials as identified herein which are collected by the MUNICIPALITY to any other markets during the term of this agreement.

D. Utilize all funds received as a result of revenue sharing as identified in Section 5 of this agreement for costs associated with the MUNICIPALITY'S Recycling Program including costs for public education.

## 8. COMPLIANCE WITH LOCAL PUBLIC CONTRACTS LAW

It is understood and agreed by both parties hereto that in the event private contractors perform or provide any services and/or materials in connection herewith, that both parties shall abide

by the provisions of the Local Public Contracts Law (N.J.S.A. 40A:11-1 et seq.).

9. INSURANCE

The COUNTY shall require the OPERATOR to maintain General Property and Personal Injury Liability Coverage for the FACILITY.

MUNICIPALITY shall maintain General Property and Personal Injury Liability Coverage for all activities and operations in any way connected with the MUNICIPALITY'S use of the FACILITY. MUNICIPALITY shall hold harmless and indemnify the COUNTY for any damages arising from activities and operations relative to the MUNICIPALITY'S use of the FACILITY.

10. MISCELLANEOUS

The following miscellaneous provisions shall apply to this agreement:

A. Construction of this Agreement

The parties acknowledge that this Agreement was prepared under New Jersey Law and shall therefore be interpreted under the laws of that State.

B. Amendment for Modifications

This Agreement may not be amended, altered or modified in any manner except in writing signed by the parties herein.

C. Headings

This section and any other headings contained in this Agreement are for reference purposed only and shall not affect the meaning and interpretation of this contract.

D. Invalid Clause

The invalidity of any clause contained herein shall not render any other provision invalid and the balance of the Agreement shall be binding upon all parties hereto.

E. Entire Agreement

This Agreement shall consist of the entire Agreement of the parties and it is acknowledged that there is no side or oral agreements relating to the undertaking set forth herein.

F. Funding

In accordance with the provisions of N.J.S.A. 40A: 11-15, this Agreement is subject to the availability and appropriation of sufficient funds in each year in which it is in effect.

G. Affirmative Action

The affirmative action provisions set forth in the documents attached hereto are incorporated herein and made a part hereof.

H. Americans with Disabilities

The Americans with Disabilities Act provisions set forth in the document attached hereto are incorporated herein and made a part hereof.

I. Notice

All notices hereunder shall be in writing, mailed, postage paid, certified mail, return receipt requested to COUNTY by directing same to the Office of County Counsel, 14<sup>th</sup> Floor, Camden County Court House, Camden, New Jersey 08102, and to the Director, Division of Environmental Affairs, 520 North Newton Lake Drive, Collingswood, NJ 08107, and to the MUNICIPALITY at the address listed herein.

J. Binding Agreement

This Agreement shall be binding upon the parties hereto and their respective heirs, executors, administrators, successors or assigns.

K. Waiver

Failure to enforce any of the provisions of this Agreement by any of the parties



shall not be construed as a waiver of the provisions.

L. Assignability

This Agreement and all rights, duties and obligations contained herein may not be assigned without prior written consent from the County.

**SIGNATURE PAGE ATTACHED HERETO**

(ReCOMM-SSA 2012-Merchtville)

**IN WITNESS WHEREOF**, the parties hereto have placed their signatures and appropriate seals on the day and year mentioned on the face of the agreement.

ATTESTED BY:

COUNTY OF CAMDEN

\_\_\_\_\_  
CLERK OF THE BOARD

\_\_\_\_\_  
ROSS G. ANGILELLA  
COUNTY ADMINISTRATOR

WITNESSED BY:

MUNICIPALITY

Name \_\_\_\_\_

Name \_\_\_\_\_

Title \_\_\_\_\_

Title \_\_\_\_\_

**MANDATORY EQUAL EMPLOYMENT OPPORTUNITY LANGUAGE**

**N.J.S.A. 10:5-31 et seq. (P.L. 1975, C. 127)**

**N.J.A.C. 17:27**

**GOODS, PROFESSIONAL SERVICE AND GENERAL SERVICE CONTRACTS**

During the performance of this contract, the contractor agrees as follows:

The contractor or subcontractor, where applicable, will not discriminate against any employee or applicant for employment because of age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex. Except with respect to affectional or sexual orientation and gender identity or expression, the contractor will ensure that equal employment opportunity is afforded to such applicants in recruitment and employment, and that employees are treated during employment, without regard to their age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex. Such equal employment opportunity shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship.

The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Public Agency Compliance Officer setting forth provisions of this nondiscrimination clause.

The contractor or subcontractor, where applicable will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex.

The contractor or subcontractor will send to each labor union, with which it has a collective bargaining agreement, a notice, to be provided by the agency contracting officer, advising the labor union of the contractor's commitments under this chapter and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

The contractor or subcontractor, where applicable, agrees to comply with any regulations promulgated by the Treasurer pursuant to N.J.S.A. 10:5-31 et seq., as amended and supplemented from time to time and the Americans with Disabilities Act.

The contractor or subcontractor agrees to make good faith efforts to meet targeted county employment goals established in accordance with N.J.A.C. 17:27-5.2.

The contractor or subcontractor agrees to inform in writing its appropriate recruitment agencies including, but not limited to, employment agencies, placement bureaus, colleges,

universities, and labor unions, that it does not discriminate on the basis of age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex, and that it will discontinue the use of any recruitment agency which engages in direct or indirect discriminatory practices.

The contractor or subcontractor agrees to revise any of its testing procedures, if necessary, to assure that all personnel testing conforms with the principles of job-related testing, as established by the statutes and court decisions of the State of New Jersey and as established by applicable Federal law and applicable Federal court decisions.

In conforming with the targeted employment goals, the contractor or subcontractor agrees to review all procedures relating to transfer, upgrading, downgrading and layoff to ensure that all such actions are taken without regard to age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex, consistent with the statutes and court decisions of the State of New Jersey, and applicable Federal law and applicable Federal court decisions.

The contractor shall submit to the public agency, after notification of award but prior to execution of a goods and services contract, one of the following three documents:

1. Letter of Federal Affirmative Action Plan Approval; or
2. Certificate of Employee Information Report; or
3. Employee Information Report Form AA302 (electronically provided by the Division and distributed to the public agency through the Division's website at [www.state.nj.us/treasury/contract\\_compliance](http://www.state.nj.us/treasury/contract_compliance))

The contractor and its subcontractors shall furnish such reports or other documents to the Division of Public Contracts Equal Employment Opportunity Compliance as may be requested by the office from time to time in order to carry out the purposes of these regulations, and public agencies shall furnish such information as may be requested by the Division of Public Contracts Equal Employment Opportunity Compliance for conducting a compliance investigation pursuant to **Subchapter 10 of the Administrative Code at N.J.A.C. 17:27.**

**AMERICANS WITH DISABILITIES ACT**  
**Mandatory Language**

Equal Opportunity for Individuals with Disabilities.

The Contractor and the County do hereby agree that the provisions of Title II of the Americans With Disabilities Act of 1990 (the "Act") (42 U.S.C. s12101 et seq.), which prohibits discrimination on the basis of disability by public entities in all services, programs, and activities provided or made available by public entities, and the rules and regulations promulgated pursuant thereunto, are made a part of this contract. In providing any aid, benefit, or service on behalf of the County pursuant to this contract, the Contractor agrees that the performance shall be in strict compliance with the Act. In the event that the Contractor, its agents, servants, employees, or subcontractors violate or are alleged to have violated the Act during the performance of this contract, the Contractor shall defend the County in any action or administrative proceeding commenced pursuant to this Act. The Contractor shall indemnify, protect, and save harmless the County, its agents, servants, and employees from and against any and all suits, claims, losses, demands, or damages of whatever kind or nature arising out of or claimed to arise out of the alleged violation. The Contractor shall, at its own expense, appear, defend, and pay any and all charges for legal services and any and all costs and other expenses arising from such action or administrative proceeding or incurred in connection therewith. In any and all complaints brought pursuant to the County's grievance procedure, the Contractor agrees to abide by any decision of the County, which is rendered pursuant to, said grievance procedure. If any action or administrative proceeding results in an award of damages against the County or if the County incurs any expense to cure a violation of the ADA which has been brought pursuant to its grievance procedure, the Contractor shall satisfy and discharge the same at its own expense.

The County shall, as soon as practicable after a claim has been made against it, give written notice thereof to the Contractor along with full and complete particulars of the claim. If any action or administrative proceeding is brought against the County or any of its agents, servants, and employees, the County shall expeditiously forward or have forwarded to the Contractor every demand, complaint, notice, summons, pleading, or other process received by the County or its representatives.

It is expressly agreed and understood that any approval by the County of the services provided by the Contractor pursuant to this contract will not relieve the Contractor of the obligation to comply with the Act and to defend, indemnify, protect, and save harmless the Owner pursuant to this paragraph.

It is further agreed and understood that the Owner assumes no obligation to indemnify or save harmless the Contractor, its agents, servants, employees and subcontractors for any claim which may arise out of their performance of this agreement. Furthermore, the Contractor expressly understands and agrees that the provisions of this indemnification clause shall in no way limit the Contractor's obligations assumed in this agreement, nor shall they be construed to relieve the Contractor from any liability, nor preclude the Owner from taking any other actions available to it under any other provisions of this agreement or otherwise at law.